

# **CAPITAL PROJECTS AND BOND OVERSIGHT COMMITTEE**

## **Minutes**

**May 21, 2002**

The Capital Projects and Bond Oversight Committee met on Tuesday, May 21, 2002, at 1:00 PM, in Room 129 of the Capitol Annex. Representative Jodie Haydon, Chair, called the meeting to order, and the secretary called the roll.

Present were:

Members: Representative Jodie Haydon, Chair; Senators Tom Buford, Bob Jackson, and Robert Leeper; Representatives Robert Damron, Paul Marcotte, and Jim Wayne.

Legislative Guests: Representative Dick Roeding.

LRC Staff: Mary Lynn Collins, Pat Ingram, Nancy Osborne, Kevin Mason, and Dawn Groves.

Guests testifying before the committee: Dr. Gary Cox, Association of Independent Kentucky Colleges and Universities; Dr. Jack Blanton, Ken Clevidence, and Tom Harris, University of Kentucky; Bill Hintze, Governor's Office for Policy and Management; Angela Martin, Council on Postsecondary Education; Commissioner Armond Russ, Jim Abbott, and Tom Howard, Finance and Administration Cabinet; Ken Schwendeman, Justice Cabinet; Dr. Bill Brundage, Commissioner of the Office of the New Economy; Warren Nash, Cabinet for Economic Development; Debby Milton, Kentucky Infrastructure Authority; and Rick Brueggemann, Bavarian, Inc.

Representative Marcotte made a motion to approve the minutes of the April 15 meeting as submitted. The motion was seconded by Representative Wayne and passed by voice vote.

Chairman Haydon called on Mary Lynn Collins, Committee Staff Administrator, to review correspondence included in members' folders. The first item was a transmittal from Western Kentucky University's (WKU) General Counsel of the Student Life Foundation, Inc.'s final financial report for 2000 and 2001. The foundation was established in 1999 and purchased WKU dormitories in 2000. The audit, performed by the firm of BKD, LLP of Bowling Green, gave an "Unqualified Opinion" that the foundation's financial statements present fairly, in all material respects, its financial position. The departures from accounting principles identified in an earlier report were addressed, and the statements were found to be in accordance with generally accepted

principles. The second item of correspondence was the monthly Kentucky Lottery Corporation report.

Ms. Collins also briefly summarized various information items also in members' folders.

Chairman Haydon then called on Dr. Gary Cox, President of the Association of Independent Kentucky Colleges and Universities, to discuss a report that he had submitted at the Committee's request concerning student housing fire safety at private postsecondary institutions. Dr. Cox said he had surveyed the private institutions and identified ten dormitories taller than three stories that have not been sprinkled. He said he was pleased to report that all ten of those dormitories are scheduled to have sprinklers installed within the next five years. Representative Wayne expressed his gratitude to the private schools for their efforts.

The next item of new business was a report requested by the committee a few months ago about the University of Kentucky's (UK) review of projects undertaken by the Wildcat Foundation, Inc. on the UK campus, including the renovation of the Cliff Hagan Baseball Stadium. Chairman Haydon welcomed Dr. Jack Blanton, Senior Vice President for Administration, Ken Clevidence, Associate Vice President for Auxiliary and Campus Services, and Tom Harris, Associate Vice President for External Affairs. Dr. Blanton said he was very pleased to talk to the committee about the newly renovated stadium, and hoped there would not be a rush to judgement on this issue. He said that President Todd would have been at the meeting, but he was in Japan with the Governor on an economic development tour.

Dr. Blanton noted he had been with UK for 27 years, but has only held his present position since July 1, 2001. He noted that the baseball stadium project was committed to by the previous administration and was one that Dr. Todd and he inherited when they took office last July. He said that while he would not have proceeded in the manner in which this facility was built, it is UK's position that everything was done in conformity with the statutes. He said the project got started when the Athletics Director at that time, Larry Ivy, the baseball coach, Keith Madison, and members of the Wildcat Foundation, Inc. discussed an initiative to renovate the baseball stadium to better compete in the southeastern conference. He noted that the Wildcat Foundation is a 501(c)(3) non-profit corporation created to raise private funds and support the athletics program at UK. It was established in the 1970's to build the Wildcat Lodge for the basketball program. The foundation has provided numerous improvements to UK facilities, including construction in the 1980's of basketball and athletic department offices in the north end of Memorial Coliseum, and in the 1990s, projects for track, golf, basketball, and football. In 1999-2000, the foundation completed a renovation of the basketball and athletic department offices and weight training room at Memorial Coliseum.

Dr. Blanton told the committee that the Wildcat Foundation, Inc. is a four-member body, all of whom are residents of Fayette County, Kentucky. The President is Steve Graves, who is a local architect, the Vice-President is Steve Lochmueller, the Secretary is Brent Rice, an attorney, and the treasurer is Nelson Radwan, a certified public accountant. All are friends, donors, and supporters of UK athletics who in turn have hundreds of friends of UK athletics with whom they network to raise funds.

Dr. Blanton said UK had recently reviewed the operations of the athletics department, including projects completed by the Wildcat Foundation. He said they concluded that the foundation was fully compliant with past procedures of UK and any NCAA requirements. At the same time, he acknowledged there was some failure by the athletics department to report to the university authorities projects undertaken by the foundation.

Dr. Blanton indicated that the plan, as initiated last year, called for the foundation to raise private funds for the baseball stadium renovation, build the stadium on UK's land, and then turn it over to the university. He said it was the university's understanding that state law does not preclude private donors from building facilities on state property and turning them over to state agencies. He said when he took office in July, he was advised that this project was getting underway. When he determined that there was no written agreement or documentation, he asked the university's legal staff to draft a contract between the university and the foundation. An agreement was signed in August of last year.

Dr. Blanton said the architect and general contractor on this project were selected by the Wildcat Foundation. The architect was Clark Barnett of Lexington, and the general contractor was Steve Branscum, Branscum Construction Company of Russell Springs. The university's construction division met regularly with the architect and contractor during contraction.

Dr. Blanton said that when the project was completed, the foundation did not have enough money to pay the contractor. He noted that this was the largest project undertaken by the foundation, and in hindsight, it should not have been done this way. The agreement signed in August identified a project scope of \$2.5 million. However, once they started the project, they found infrastructure problems, and increased the scope to \$4.2 million. They later scaled the project back, deleted the planned clubhouse, and the final cost of the project was \$3,268,435.

Dr. Blanton explained that the foundation initially planned to borrow the funds to pay the contractor. However, their legal counsel advised that KRS 45.763(2) prohibits borrowing funds without General Assembly approval for a project to be owned by a state agency. At that point, they decided to seek funds from the Blue-White Fund. The fund is made up of private contributions that come into the athletics department for support of

the athletics program. It involves the sale of both football tickets and basketball tickets. There is a premium paid for some of these tickets, and those funds are set aside to function as a quasi-endowment. The Blue-White Fund is held by the university, not by the athletics association, and about 5% of the base is spent each year. Currently, the endowment has \$16,980,440. Dr. Blanton told the Committee that in April of this year, the UK Board of Trustees unanimously agreed to make a grant from the Blue-White Fund to the Wildcat Foundation to pay for the Cliff Hagan Baseball Stadium renovation. It is the university's expectation that there will be a focused effort by the athletics association and the Wildcat Foundation to replenish those funds in a relatively short period of time.

Dr. Blanton said that over the years, benefactor organizations have provided a number of projects on campus, and he did not believe the state would want to discourage that kind of contribution. He concluded his remarks by stating that the current administration would not have done this project this way, and will not be doing future projects this way. Future projects will go through the statutory process. He also stated that as long as Dr. Todd is president, the university will not be doing any major projects with the Wildcat Foundation.

Representative Marcotte said he was really concerned about the lack of institutional control. The stadium issue comes on the heels of reports of lack of documentation of projects relating to the remodeling of offices at Memorial Coliseum. In that case, the Lexington *Herald-Leader* was unable to obtain construction contracts, receipts, or any other documents showing how the money was spent. He said in this most recent case, the foundation raised less than \$200,000 of the \$2.5 million it had pledged. He expressed confidence that Dr. Todd would bring the situation under control, but questioned whether the state auditor had reviewed the issue.

Dr. Blanton said they have not heard from the state auditor, but when Dr. Todd learned about the prior improvements made in Memorial Coliseum for which the university had no records, he directed Dr. Blanton to meet with the foundation members. Mr. Radwan, who runs a public accounting firm, had records that show to the penny what was spent and how it was spent.

Representative Wayne questioned Dr. Blanton's earlier statement that he would not have done the project in the way it was done. He pointed out that Dr. Blanton signed the August 2, 2001 agreement. Dr. Blanton said by the time he became aware of the project, it was already underway and commitments had been made. He said he had the agreement drawn up at that point so there would be a paper trail that would identify what this project was and how it should proceed.

Representative Wayne said in this instance, UK circumvented statutory procedures. The project was not submitted to the Council on Postsecondary Education

(CPE) or the General Assembly. In addition, the project was not initially submitted to the University Board of Trustees.

Dr. Blanton said if the university has circumvented the process in this case, they will make sure it does not happen again. Representative Wayne then asked if the prevailing wage statutes were followed in the renovation project. Dr. Blanton said he did not think so, but he did not know since the Wildcat Foundation handled the project. He agreed to find out, and follow up with the committee's staff.

In response to another question from Representative Wayne, Dr. Blanton said he had no knowledge of the bidding procedures except the contractor did solicit bids for certain of the subcontractors. Representative Wayne asked if Dr. Blanton understood why this concerns the committee. Dr. Blanton said he did, but pointed out that when they do these projects in this way, they find subcontractors who are willing to donate their services or reduce their rates. Representative Wayne said he saw no reason why UK had to circumvent the process, and it has, unfortunately created an atmosphere of mistrust. He said even though the project may have started before the new administration took over, the project proceeded under Dr. Blanton and Dr. Todd. He said he hoped that in the future, the university can work more closely with the committee. Dr. Blanton reiterated his earlier commitment that the university will not do Wildcat Foundation projects again, and stated that they will work to build the Committee's trust back.

Senator Buford asked if the foundation would make up the difference if it was found that the workers on the stadium project were not paid the prevailing wage. Dr. Blanton said he could check into it, but he had no idea how the contractor or the foundation would respond to that suggestion.

In response to further questions from Senator Buford, Mr. Blanton said there were no liens outstanding or lawsuits relating to the project. Mr. Branscam carried the project out of his own bank account until he was reimbursed.

In response to a request from Senator Jackson, Angela Martin, CPE's Vice President for Finance, said CPE had not been aware of the project. Senator Jackson said he could not see how CPE--or even this legislative body--could not know when a facility is being built. It is obvious when new facilities are being built, and it is obvious as to whether institutions are going through the statutory processes. He asked how the money will be replenished. Dr. Blanton responded that donors will write checks to either the foundation or UK, and all funds received will be transmitted to the Blue-White Fund. Senator Jackson asked what were the comments of the trustees as they reviewed this request for funds. Dr. Blanton said after Dr. Todd explained the situation, the trustees voted unanimously to proceed with the grant to the foundation.

Dr. Blanton then asked if he could get some clarification on this issue. He said they were under the impression that if someone makes an offer to build a facility on campus, using private funds and contractors, the university can accept such a gift. He said they were not under the impression they had to get CPE approval for that, or do anything, except report it to this group. He said they need clarification from the committee, the Finance Cabinet, and CPE if there are other requirements.

Senator Jackson said the answer is simple. There is a competitive bidding process that is required and a prevailing wage law to follow. There are a number of laws on the books to address how we deal with public assets. He went on to say he certainly applauded donors willing to provide universities with large financial gifts. However, he stressed that as we go through higher education reform, we are moving into uncharted waters, and must be careful not to veer off the course from time to time because there are laws that govern our public institutions. He pointed out that CPE is a coordinating body responsible for making sure we don't get off track. He said he could not remember a postsecondary institution project that has come in front of this committee having been stopped, and it really raises one's concern when the process is circumvented. There must be some reason for the circumvention, or the project would have gone through normal channels.

Dr. Blanton replied that if the Wildcat Foundation had simply made a donation to the university instead of building the facility, the project would have come through the process, and the prevailing wage would have been followed. But, he said, if someone comes and offers to build a building, that is a different situation. He indicated that UK has just signed a contract with the American Cancer Society to build a facility on campus that will house cancer patients who are treated on an out-patient basis in the university's medical center. The American Cancer Society has a long-term lease for the land at an annual cost of \$1. Dr. Blanton said if that project needs to come to this committee, and go through the CPE, that is very different from what they have done in the past. Senator Jackson advised they needed to first get good legal counsel at UK; secondly they should talk to CPE and Finance. Lastly, they should bring it to the committee. He said the committee has been very supportive of university initiatives, and wants the universities to be able to raise private funds for some of those initiatives. At the same time, he indicated that the committee does have an important oversight role.

Chairman Haydon asked Bill Hintze, Deputy State Budget Director, Governor's Office for Policy and Management, if he had any comments to offer. Mr. Hintze said universities are treated differently as a matter of law and policy compared to regular state agencies. They are uniquely situated in what they do and in the latitude they have been accorded by the General Assembly, particularly with respect to self-governance. He noted that UK, the University of Louisville, and Murray State University have opted to manage their own construction programs, and the Finance Cabinet and the Governor's Office for Policy and Management have very little "hands-on" knowledge of projects

constructed on those three university campuses. He said they assume that what goes on is done in accordance with the standards that his office follows. Per those standards, he said his office would have presented the stadium project for the committee's review. He acknowledged that the universities managing their own construction are less experienced in dealing with such issues on a day-to-day basis, and suggested that further dialogue on this issue is needed. He indicated that in the case of the cancer facility, he would have reported the project to the committee, regardless of who was doing the work.

Mr. Hintze said in addition to providing a report to the committee, his office would have required certification as to the availability of private funds before proceeding. He reminded the committee of the certification process instituted by his office and the committee when several years ago private donations reported as available for a capital project on another university campus ultimately did not materialize. He said his office would, at a minimum, report to the oversight committee any developments on state property of a value of \$400,000 or more regardless of who is putting up the money or who is doing the construction project. He said he believes that process has worked well.

Mr. Hintze said that perhaps his office did not communicate their standards to the three universities that manage their own construction as well as they could have, but his office tends to err on the side of making reports to the committee even if they are not clearly required by statute. He said at times, reports are made to the Committee simply for information, and at other times, they are made to gain explicit concurrence of the committee. He agreed, however, that they do not want to do anything to impede in any way the ability of universities to raise private funds. He said that his office, as well as the committee, have even acquiesced in the certification of private funds by not requiring the names of donors.

Senator Leeper asked who will operate and maintain the building being built by the American Cancer Society on UK property. Dr. Blanton said the American Cancer Society will maintain the building. Senator Leeper then asked who will maintain the baseball stadium. Dr. Blanton said that facility will be maintained by the UK athletics department. Senator Leeper observed that is a major difference in the two projects.

Senator Leeper asked if the Wildcat Foundation issued an RFP prior to choosing Steve Branscum as general contractor for the stadium project. Dr. Blanton said he understood they had made some inquiries and selected Mr. Branscum, who is a big supporter of UK athletic programs. He said Mr. Branscum gave them the best price he could. Senator Leeper said he appreciated people like Mr. Branscum who are willing to be big supporters of university programs, but noted at the same time, the project increased from \$2.5 million to \$3.5 million. He said a lack of bids and the fact that the project started without any agreement on how to deal with cost overruns are issues that concern the committee. He asked if there are any other projects being approached in a

similar manner. Dr. Blanton responded that the only other project he was aware of was the cancer facility as discussed earlier.

Senator Leeper said he was comfortable with Dr. Todd's commitment that this will not happen in the future, and asked that the committee receive a quarterly report on the Wildcat Foundation's effort to replenish funds taken from the Blue-White Fund to pay for the stadium project. Dr. Blanton said he would be happy to provide such report.

Representative Wayne suggested that the committee use the same approach on this issue it used last year concerning the proposed Diddle Arena renovation project at Western Kentucky University. In that instance, the committee asked the President of CPE, the Finance Cabinet Secretary, the Attorney General's Office, and the state Auditor to review the issue. A working group was formed, and a report of findings and recommendations was given to the committee. Representative Wayne said that he thought that group did a good job of reviewing the process and offering constructive suggestions to all parties involved. He noted such an approach fits Mr. Hintze's comments about the need for continuing dialogue on the issue. He then made a motion that the same group that worked on the Diddle Arena proposal be asked to review this new issue and report back to the committee their findings and recommendations. He included in his motion that a representative of the Labor Cabinet also be included in the working group. The motion, which was seconded by Senator Buford, was adopted.

Representative Damron cautioned against micromanaging the financing and construction of projects of universities that have the size and ability to manage their own. He said he thought perhaps the statutes are not clear on the reporting process. He said in cases like the American Cancer Society, there is a reporting process to inform the General Assembly, but he hoped they would not move to require statutory authorization before accepting \$10 million from the American Cancer Society to provide a facility that will serve the citizens of the Commonwealth. At the same time, he said he thought a reporting process is necessary. He agreed with Senator Leeper that there is an important distinction between projects a university operates and maintains and projects that the university will not have the responsibility to operate and maintain. He said he thought it would be hard to build a case where if the university is responsible for maintenance and operations, that the General Assembly and the committee would not have some oversight responsibility. He said he hoped if clarification of the statute is needed, that can be done in the 2003 Regular Session.

Representative Damron also said, as an opponent of prevailing wage requirements, he would welcome an evaluation of what the stadium would have cost if the prevailing wage had been paid. He said this may be the study opportunity that Senator Stine and others in the legislature have been seeking. In response to questions from Representative Damron, Dr. Blanton said that from the first day, UK had one of its construction managers involved in the project, and they gave the project the same kind of oversight



given to projects that come the regular route. He indicated the stadium is a high-quality facility that will meet the guidelines and the standards of any other UK project. Representative Damron said then he would wholeheartedly endorse an analysis of the difference of costs of this facility had the prevailing wage been paid. He said when the prevailing wage law was passed, the proponents said it was not about cost but about quality. He said now we have a project with identical quality to those built under the prevailing wage, so this is an opportunity to see if the costs are identical.

Representative Wayne said that on behalf of working men and women, he too would welcome a study of wages paid on this project.

Representative Damron then noted that he thought UK had erred on the stadium project, but Dr. Blanton and Dr. Todd did not make the decision to take the approach taken in the renovation of the stadium. He said he hoped the day's discussion is seen by UK as a constructive effort to avoid similar problems in the future.

Senator Buford asked Ms. Martin if CPE had discussed with the university presidents their responsibility to report projects, regardless of who is doing the construction. Ms. Martin said they have not done that in the past, but the Council President does meet with the university presidents every month, and that item could be added to the agenda. Senator Buford said he thought that would be helpful. He also indicated it would be helpful if university foundations were also contacted. Ms. Martin said that CPE would send a letter to all the postsecondary affiliated and unaffiliated foundations.

Chairman Haydon said that at times oversight can be sticky, and he thanked Dr. Blanton for his cooperation. He said the committee looked forward to working with him in the future.

Chairman Haydon then asked Mr. Clevidence to discuss UK's report of scientific research equipment as unbudgeted items. The items were an optical floating zone furnace for \$120,254 and a gas chromatograph mass spectrometer for \$450,000. Mr. Clevidence said the equipment was funded by fund balances and reallocated operating expenses. In response to a question by Representative Wayne, Mr. Clevidence said he was assured by the affected departments that use of operating funds to purchase the equipment will not impact operations. Chairman Haydon said purchases of unbudgeted equipment must be reported to the committee, but no further action is necessary.

Mr. Clevidence then presented the UK lease report from the College of Medicine for the Comprehensive Assessment and Training Services project. Since UK currently leases space on Blazer Parkway for the Department for Psychiatry, and additional space was available at the same location and rate, UK did not advertise or bid this lease. In response to a question by Representative Wayne, Mr. Clevidence said the university is

now negotiating for property that might permit them to move the Psychiatry Department back to the university campus.

Representative Damron made a motion to approve the lease which was seconded by Representative Marcotte and approved by voice vote.

Chairman Haydon then discussed a report by the University of Louisville regarding the purchase of scientific equipment for biomolecular structure determination and other experiments. The equipment cost is \$2,070,000, to be paid from grant funds. Chairman Haydon indicated no further action was required on this unbudgeted purchase.

Chairman Haydon then asked Mr. Jim Abbott, Director of the Division of Real Properties, to discuss two lease modifications. The first modification was for PR-1213, at 911 Leawood Drive, Frankfort. The Division of Real Properties had cancelled this lease when the Office of Petroleum Storage Tank Environmental Assurance Fund moved out of the property. Mr. Abbott said, however, his office rescinded the cancellation when it was determined that leased space was needed for the Division of Occupations and Professions. He said they have modified the lease for a one-year period and to amortize approximately \$10,800 in leasehold improvements. He pointed out that the base rental rate is excellent at \$6.50/sq. ft.. With the amortization of new improvements, the new rate will be \$7.30/sq. ft. He then reported on a second modification for a lease in Clay County for the Cabinet for Families and Children, PR-2974. The modification would amortize approximately \$3,100 in leasehold improvements to redesign the entry/reception area to add security features.

Mr. Abbott then reported on space modifications for five leases processed during the quarter of January through March 2002. In four of the leases, space was increased; in one lease, space was reduced. Mr. Abbott pointed out that PR-4354 in Fayette County appears to be exceed the normal space standards but that was due to clinical space and patient rooms for the child care operations conducted in the building. Chairman Haydon indicated that because all of these modifications are under \$50,000, no action was required by the committee.

Chairman Haydon asked Mr. Bill Hintze and Commissioner Armond Russ to present the monthly Finance and Administration Cabinet report, and congratulated Mr. Hintze on receipt of the Gloria Timmert award by the National Association of State Budget Officers. The first item presented by Mr. Hintze was an allocation of \$190,000 from the Emergency Repair, Maintenance and Replacement Fund for the Morehead State University library. Several stone pieces had fallen off the building, and a consultant had advised immediate repair of the stone. He said this is the emergency portion of a bigger project that the university plans to pursue later. Chairman Haydon noted that allocations from the emergency fund must be reported to the committee within 30 days and no further action is required.

Mr. Hintze then presented another allocation from the Emergency Repair, Maintenance and Replacement Fund. Maysville Community College received a \$1.8 million allocation for a mold/fungi abatement project in the Administration and Denham Buildings. This allocation is in addition to the \$900,000 allocation for the same building reviewed by the committee in December 2001. (An amount of \$135,000 has also been allocated from Kentucky Community and Technical College System maintenance funds for the project.) The Governor had recommended \$3.1 million as a current fiscal year appropriation, which was included in every subsequent version of the budget bill in both the 2002 Regular and Special Sessions by both Chambers of the General Assembly. In the absence of a budget and with on-going work during the summer now that school is out, this \$1.8 million represents the next installment of payments on bids that have been accepted.

Mr. Hintze said while the next project is not an emergency, there is a sense of urgency concerning it. It was a scope increase for the combined project involving the Law Enforcement Basic Training Complex at Eastern Kentucky University. This was a project recommended to the 2002 General Assembly with a current year appropriation to purchase equipment and furnishings for the nearly completed training complex. Mr. Hintze said that the Justice Cabinet's Department of Criminal Justice Training would like to move into part of the complex in June. The cost of the equipment and furnishings will come from agency receipts from specialized training programs.

Representative Damron asked for more information about the agency fund source. Mr. Hintze said that agencies such as Fish and Wildlife Resources, that are not eligible for the "free training", pay a fee for training services. Mr. Ken Schwendeman, Department of Criminal Justice Training, said there are 27 federal agencies that also come for training and pay a separate tuition fee. He explained that the agency has allowed these tuition fees to accumulate over several years, and funds are available to use for this project. He said there would be no fee increase for training.

Senator Leeper asked about the status of the task force to consider the need for a statewide law enforcement training complex. Mr. Schwendeman said that the task force and the facility planning for that facility were put on hold given the economic situation. He indicated, however, that the need for such a complex would be part of the study authorized by House Bill 415. Senator Buford made a motion to approve the project which was seconded by Senator Leeper and approved by voice vote.

Mr. Hintze said the last two items in his report were unbudgeted projects for the laboratory in the Department for Public Health, Cabinet for Health Service. Both are federally-funded from the Public Health Preparedness and Response to Bioterrorism grant program. The first project involves renovation of the state bacteriology lab in the Central State Laboratory in Frankfort at a cost of \$931,000. The renovation will enable

the lab to be certified as a facility in the national Laboratory Response Network. The second project will replace the Cabinet for Health Services laboratory information management system (\$775,000) to improve access and compatibility with federal facilities. Senator Buford made a motion to approve both projects which was seconded by Representative Marcotte and approved by voice vote.

Representative Marcotte asked Mr. Hintze about the balance in the Contingency Account is. Mr. Hintze replied that if one assumes passage of the budget as recommended to the 2002 General Assembly, the balance would be slightly less than \$10 million. The balance currently stands at about \$19 million, but the Governor recommended appropriations from the account in the 2002-04 budget for various urgent projects.

Chairman Haydon welcomed Dr. Bill Brundage, Commissioner of the Office of the New Economy, Cabinet for Economic Development. Dr. Brundage said one of the strategic goals of the New Economy is to have by 2010 about \$500 million a year of research and development expenditures at the state's public universities. He said that in conjunction with the Bucks for Brains initiative, there is a study now underway to identify what research facilities are needed and the amount of space that will be needed by 2010. He said he would provide the study results to the committee.

Dr. Brundage then presented the last two projects to receive allocations from the 2000-02 New Economy Pools. One is an equity investment of \$500,000 from the Commonwealth Seed Capital, a venture capital entity owned by the Commonwealth, to Kentucky First, a private investment company based in Northern Kentucky. The company will use its network of investors and venture capitalists to create or buy Kentucky pharmaceutical companies. The second allocation was \$4 million to the University of Kentucky for renovation and construction of additional space in its Center for Pharmaceutical Science and Technology (CPST). Dr. Brundage said Kentucky has one of the top pharmaceutical schools in the United States, but UK's 3,000 square foot CPST facility is inadequate. He said this new facility could be built at the Coldstream Research Park. UK has also agreed to contribute \$2 million to the project, and there is a possibility that the industry may also contribute to the project which would enable construction of a much larger facility, perhaps 25,000 square feet. Chairman Haydon mentioned that no further action on the allocations was required at this time. However, he said that since additional funds are anticipated for the UK pharmacy facility, a further report by UK will be required at a later date.

Chairman Haydon called on Warren Nash, Economic Development Cabinet, Deputy Commissioner, Department for Financial Incentives, Cabinet for Economic Development, to present a report on financial assistance from the Economic Development Bond Pool. The assistance is a \$300,000 forgivable loan, through the Lexington-Fayette County government to Webasto Roof Systems, Inc., to help underwrite the company's new \$18 million manufacturing facility to be built across the street from the current

facility. The company has agreed to create 185 new jobs by December 31, 2009, with the initial 95 jobs created by December 31, 2004. The current location will keep its 218 current employees. Representative Marcotte's motion that the project be approved was seconded by Senator Leeper and passed by voice vote.

Mr. Tom Howard, Deputy Director for the Office of Financial Management, presented several new bond issues. He said they expected to issue two series of General Fund Tax and Revenue Anticipation Notes (TRAN) this year to provide working capital for the General Fund. The expected sales date is June 17, with proposed date of issue July 2 with a maturity date of June 2003. There would be a fixed rate portion of \$400 million and a variable rate portion of \$200 million.

Representative Damron asked if they had obtained legal counsel on whether they have the ability to issue a TRAN, since there is no budget for the upcoming biennium. Mr. Howard said they are still studying the question, but since it is clear that revenues will still come in, the question goes to the status of expenditures. He said the question seems to turn on what is necessary governmental services and how to pay for them. He said that he thought the counsel would advise that a TRAN can be issued.

Representative Damron's motion to approve was seconded by Representative Wayne and passed by voice vote.

Mr. Howard then presented the Kentucky Economic Finance Authority (KEDFA) Variable/Fixed Rate Demand Industrial Building Revenue Bond for Republic Service Inc. for approximately \$12.2 million. He explained that this was part of Kentucky's private activity bond cap based on certain internal revenue code guidelines. In the current year, Kentucky has a \$75/person or \$304.9 million private activity bond cap. Per state law, 60% of the cap is allocated for state issuers (like the Kentucky Housing Corporation and the Student Loan Corporation) and 40% to a pool for local issuers. Projects proposed by potential local issuers are evaluated under 200 KAR 15:010, which has a specific formula for distributing the pool. This year, the pool was not fully used, and there is a balance of about \$3 million. An issuer has three months to sell bonds after receiving the allocation; any cap not used within this time reverts to the pool. Typically, recipients of the cap, issue the bonds as a conduit through a local government. In this case, KEDFA was asked to serve as the conduit issuer since the bond proceeds will be used in multiple locations within the state.

Mr. Howard said there is no state money associated with this, and the company is fully responsible for repayment. He said this issue was being submitted to the committee on a contingency basis since this project is subject to a public hearing on May 23, and KEDFA has not given its final approval.

Chairman Haydon called on Mr. Rick Brueggemann, Bavarian, Inc., who had asked to speak on the issue. Mr. Brueggemann said Bavarian, Inc. is a solid waste disposal company located in Northern Kentucky. He said he had not known of the opportunity to apply for private activity bond authorization, and noted that the authorization is going to Republic Services, Inc., a Florida company, that competes with Kentucky-based companies. Consequently, he noted, Republic Services, will get a better rate for money through this mechanism than is available through a bank. He stated that he couldn't understand how this will benefit the public. He said he was particularly sensitive to the fact that Kentucky taxpayers pay for administration of this program that creates unfair competition from out-of-state firms. He said his company was the last family-owned waste business left in Kentucky.

Representative Marcotte said he agreed with Mr. Brueggemann, and said that Bavarian Inc. is very community oriented. He said he thought the bond authorization before the committee would put Mr. Brueggemann at an unfair disadvantage and that he would be voting no on it. In response to a question from Representative Wayne, Mr. Howard said this is a federal tax issue and deals with interest that may be exempt from federal and/or state tax under the alternative minimum tax schedule. The tax break ultimately goes to the individual who purchases the issue, so there is no way to know or predict exactly what the ultimate tax credit will be.

Representative Damron pointed out that Republic Services, Inc. does not pay a state income tax. He said it was his concern is that we are giving a benefit that belongs in Kentucky to an out-of-state firm which in turn makes it more competitive against Kentucky-based companies. This creates an unlevel playing field since their cost of capital is less than going through the regular market place.

Chairman Haydon recognized Senator Dick Roeding, who represents the counties of Kenton and Boyd, to address the committee. Senator Roeding said he also believed that allocation of private activity bond allocation to Republic Services gives an unfair advantage to an out-of-state company. Senator Buford said he agreed, and made a motion that the committee reject this action. The motion was seconded by Representative Marcotte, and passed by voice vote.

Mr. Howard then presented a \$5.5 million bond issue for the Eastern Kentucky University Housing System Revenue Bonds for the renovation of Combs Hall. The proposed date of sale is the first week of June. It is to be a competitive sale with Peck, Shaffer & Williams as bond counsel, Hilliard Lyons as the financial advisor, and Bank One of Kentucky as the trustee. Representative Marcotte's motion to approve the action was seconded by Representative Damron and passed by voice vote.

Mr. Howard then gave a follow-up report for bonds previously approved by the committee. He stated that the State Property and Building Commission Revenue

Refunding Bonds, Project No. 73, Second Series, a refunding issue, generated in excess of 6% present value savings. The Adjustable Rate Demand Health Care Facilities Revenue Bonds Series 2002 for Baptist Homes, Inc. was a \$2.5 million issue that closed on March 28.

Mr. Howard then reported on the School Facilities Construction Commission supported bond issues for three transactions totaling \$6 million with no local tax issues associated with any of the projects. The projects included refunding bonds of \$925,000 for Caverna Independent (Barren County), \$2.6 million for Letcher County to complete site improvement for a new high school, and \$2.4 million for Raceland-Worthington Independent (Greenup County) for high school renovations. Representative Marcotte made a motion to approve the action that was seconded by Senator Leeper and passed by voice vote. Representative Damron abstained from the vote, citing a potential conflict of interest.

Chairman Haydon noted there were eight new school bond issues that are 100% locally-funded: Bardstown Independent (Nelson County), Boone County, Bullitt County, Caverna Independent (Barren County), Edmonson County, Lyon County, Pike County, and Union County. He said staff has reviewed each, and reported that all disclosure information is included. No further action was required.

Chairman Haydon then welcomed Debby Milton, Kentucky Infrastructure Authority (KIA), to discuss two projects. Ms. Milton said that both projects involve loans from the federally-assisted revolving fund programs. The first project was for the City of Harrodsburg which proposes to correct chronic sewer overflows by constructing a new interceptor and gravity collector system. This project will resolve an agreed order with the state Division of Water and lift the tap-on ban. The total project is \$4.4 million with KIA participation of \$3.3 million. The second project was for the City of Taylorsville which proposes to construct 28 miles of waterlines to provides service to 239 new customers. The project also includes a 750,000 gallon water storage tank, upgraded telemetry system, and an updated billing system. The total project is \$2.8 million with KIA providing \$1.4 million. Ms. Milton said both of these projects had been reviewed by the Division of Water, and approved by the KIA board. Representative Marcotte made a motion to approve the projects; the motion was seconded by Representative Damron, and passed by voice vote.

Chairman Haydon said the next meeting would be June 18 at the same time and place. There being no further business, the meeting adjourned at 3:30.